

APS-254

May 26, 2005

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. NO. 05-1323

UNITED STATES OF AMERICA

VS.

JUAN A. SANCHEZ, ET AL.,
Appellant

(M.D. PA. CRIM. NO. 01-CR-00090-1)
(CRIMINAL TREATED AS CIVIL)

Present: SLOVITER, NYGAARD and FUENTES, Circuit Judges

Submitted is Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) in the above-captioned case.

Respectfully,

Clerk

MMW/RW/arl

ORDER

The foregoing request for a certificate of appealability is denied. For substantially the reasons given by the District Court, we conclude that jurists of reason would not debate the correctness of the District Court's decision to deny Appellant's motion to vacate his sentence under 28 U.S.C. § 2255. To the extent Appellant seeks to rely on Blakely v. Washington, 124 S. Ct. 2531 (2004), and United States v. Booker, 125 S. Ct. 738 (2005), those decisions do not apply retroactively to cases on collateral review. See Lloyd v. United States, __ F.3d __, 2005 WL 1155220, *6 (3d Cir. May 17, 2005). Accordingly, Appellant has failed to make a substantial showing of the denial of a constitutional right, and a certificate of appealability will not issue. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003).

By the Court,

/s/ Richard L. Nygaard

Circuit Judge



A True Copy

Dated: June 17, 2005

ARL/cc: JAS; TBS

Marcia M. Waldron

Marcia M. Waldron, Clerk